In my view, this item cannot be charged until the case has proceeded to such a stage that the plaintiff's advisers know what are the issues of fact and law to be debated at the trial. Usually that stage will not be reached until the pleadings have been closed, and as in this case the defendants had not filed their defence, I held that the item was not chargeable at all.

Solicitors for the Plaintiff—*Freeman & Madge.*

Solicitors for the Defendant—*Bannon & Bailey.*

[APPELLATE CRIMINAL JURISDICTION]

THE KING .. .. **Respondent**

vs.

DORA STREZESZAK .. .. **Appellant**

[SINGAPORE MAGISTRATE'S APPEAL No. 41 OF 1932]

Ordinance 117 (Chandu Revenue) Sections 11, 12 and 36—Penalty—Imprisonment in default.

When a person is convicted of importing chandu and is sentenced to a fine with imprisonment in default but is not sentenced to peremptory imprisonment the imprisonment in default of payment of the fine may, according to the amount of the fine, amount to two years.

The appellant was convicted in the District Court of Singapore on a charge of importing 1362 tahils of chandu by S.S. Carthage on 12th October, 1932 contrary to Section 11(1) of Ordinance 117 (Chandu Revenue) the penalty for which offence is prescribed by Section 12.

The value of the chandu was $9534.

She was sentenced to pay a fine of $15,000 and in default of payment to undergo two years Rigorous Imprisonment.

The appellant appealed against conviction and sentence.

Page for appellant. The sentence of two years in default of payment of the fine is illegal. The maximum peremptory imprisonment which a magistrate can impose under Section 12 is twelve months.

If he imposes a fine only he cannot order more than twelve months in default, otherwise he could by imposing a large enough fine defeat the restriction of 12 months. Section 36 must be construed as being limited by Section 12.

McElwaine, D.P.P. for the Crown. Section 12 authorises the following sentences in this case:—

(1) Fine of $95,340—the imprisonment in default is determined by Section 36 and may amount to two years.
(2) Peremptory imprisonment for 12 months.
(3) Both a fine of $95,340 with 2 years in default *and* 12 months R.I. peremptory.

If both fine and imprisonment had been ordered appellant would have been liable to 3 years if she did not pay. See Section 36 Proviso (*b*). The fact that she is given the option of a fine without peremptory imprisonment does not limit the imprisonment in default clearly authorised by Section 36.

TERRELL, J. in dismissing the appeal said that in his opinion Sections 12 and 36 were complementary and that the imprisonment in default ordered under Section 36 was not restricted by Section 12 if the fine under the latter section was of such an amount as involved the imprisonment for non-payment which was authorised by Section 36. The appeal was therefore dismissed and the conviction and sentence confirmed.

Solicitors for appellant—*Allen & Gledhill.*

[ORIGINAL CRIMINAL JURISDICTION]

REX vs. KHOR TENG QUEE

[SINGAPORE 6th ASSIZE CASE No. 2 of 1932]

Criminal law—Procedure—juryman having possible interest in result of case—competancy of.

After the opening for the prosecution had proceeded for some time it transpired that one of the Jury had a possible interest in the result of the case.

Held that it was not competent for the juryman to sit.

Knowles for the Crown.

Walters for the Defence.

Counsel attended in Chambers before the Judge and the cases *Dimes* v. *The Grand Junction Canal Co., Ltd.* 10 Eng. Reps. H.L. 758; 3. H.L.C. 759 and *The Queen* v. *The Justices of Great Yarmouth*, VIII Q.B.D. 525 (observations of Field J. at p. 527) were referred to.

WHITLEY, J.—It has been brought to my attention that one of the members of the jury is connected with a bank which may have some interest in a bank which I understand will be mentioned in the course of this case.

That being so, it seems to me that although that gentleman may not himself be aware that he has any interest in the case, the law of England is very clear on the subject that where there is any danger, at any time, of a judge, magistrate or member of the jury having an interest in the matter, it is desirable he should not sit and that somebody else should be substituted. That being so, I ask that the names of the other six gentlemen of the jury should be called and they should take their place, and that then another juryman be substituted for this gentleman, who, it seems to me, it would not be fair to ask to sit on this case.